

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 20-1203V

UNPUBLISHED

KYRIAN J. MARSHALL,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: December 22, 2021

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Table Injury; Influenza (Flu);  
Shoulder Injury Related to Vaccine  
Administration (SIRVA).

*Kathy Ann Lee, Christie Farrell Lee & Bell, P.C., Indianapolis, IN, for Petitioner.*

*Zoe Wade, U.S. Department of Justice, Washington, DC, for Respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

On September 15, 2020, Kyrian J. Marshall filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleged that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of the influenza (“flu”) vaccine administered on October 17, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 21, 2021, Respondent filed his Rule 4(c) report in which he **concedes** that Petitioner’s alleged injury is consistent with SIRVA as defined by the Vaccine Injury Table, and that compensation is appropriate. Specifically, Petitioner had no recent history of pain, inflammation, or dysfunction of her right shoulder; the onset of

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<sup>1</sup> Because this unpublished opinion contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the opinion will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioners have 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

Petitioner's pain occurred within 48 hours after receipt of an intramuscular vaccination; Petitioner's pain was limited to the shoulder in which the vaccine was administered; and no other condition or abnormality has been identified to explain Petitioner's right shoulder symptoms. Respondent further agrees that Petitioner met the statutory requirements by suffering the condition for more than six months. Rule 4(c) Report (ECF No. 30) at 1, 7-8 (citing 42 C.F.R. §§ 100.3(a), (c)(10)).

**In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**  
Brian H. Corcoran  
Chief Special Master